

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALBERTO BATISTA JR.,

Plaintiff,

-against-

MR. JOSEPH PONTE, COMMISSIONER;  
NEW YORK CITY DEPARTMENT OF  
CORRECTION; CORIZON PRISON  
HEALTH SERVICE; CORRECTION  
OFFICER WAYNE; CORRECTION  
OFFICER LEWIS; CORIZON STAFF AND  
AGENTS,

Defendants.

15-CV-1657 (LAP)

ORDER GRANTING IFP  
APPLICATION IN PRISONER CASE

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff's application for leave to proceed without prepayment of fees is granted. A prisoner bringing a civil action is required to pay the full \$350 filing fee even when proceeding *in forma pauperis* (IFP), that is, without prepayment of fees. *See* 28 U.S.C. § 1915(b)(1). The Court must collect, when funds exist in a prisoner's account, an initial partial filing fee<sup>1</sup> plus monthly payments. The agency having custody of the prisoner shall forward payments from the prisoner's account to the Clerk of Court each time the amount in the account exceeds \$10, until the filing fees are paid. 28 U.S.C. § 1915(b)(2); *see also* In the Matter of the Prison Litigation Reform Act, Second Amended Standing Order, M10-468 (S.D.N.Y. May 26, 2010) (requiring agencies to calculate and remit the statutory fees for litigants in their custody).

Plaintiff has executed a prisoner authorization that authorizes the agency having custody of Plaintiff, or any agency to which Plaintiff is transferred, to send a certified copy of Plaintiff's

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<sup>1</sup> The initial partial filing fee is 20 percent of the greater of – (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint. 28 U.S.C § 1915(b)(1)(A).

prison trust fund account for the past six months to this Court. The prisoner authorization further authorizes the agency to calculate the amounts specified by 28 U.S.C. § 1915, to deduct those amounts from Plaintiff's prison trust fund account (or institutional equivalent), and to disburse those amounts to this Court.

Accordingly, the Clerk of Court is directed to send a copy of this order and the prisoner authorization to the agency having custody of Plaintiff. That agency is directed to forward copies of Plaintiff's prison trust fund account for the past six months and to disburse the payments required under 28 U.S.C. § 1915 to the United States District Court for the Southern District of New York and to include the above docket number on the disbursement before sending it to the Court. If Plaintiff is transferred to another facility, the current facility shall provide a copy of this order to the facility to which Plaintiff is transferred. The Clerk of Court is also directed to send a copy of this order to Plaintiff and note service on the docket.

Finally, it is Plaintiff's obligation to promptly submit a written notification to the Court if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: March 13, 2015  
New York, New York

  
LORETTA A. PRESKA  
Chief United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

15 CV 01657

**PRISONER AUTHORIZATION**

Case Name: Alberto Batista Jr Joseph Ponte Commissioner  
N.Y.C.D.D.C  
 (Enter the full name of the plaintiff(s)) v. Corizon / Prison Health Service  
 (Enter the full name of the defendant(s))

Docket No: No. \_\_\_\_\_ Civ. \_\_\_\_\_ ( )  
 (Enter the docket number, if available; if filing this with your complaint, you will not have a docket number.)

The Prison Litigation Reform Act ("PLRA" or "Act") amended the *in forma pauperis* statute (28 U.S.C. § 1915) and applies to your case. Under the PLRA, you are required to pay the full filing fee when bringing a civil action if you are currently incarcerated or detained at any facility. If you do not have sufficient funds in your prison account at the time your action is filed, the Court must assess and collect payments until the entire filing fee of \$350.00 has been paid, no matter what the outcome of the action.

**SIGN AND DATE THE FOLLOWING AUTHORIZATION:**

I, Alberto Batista Jr (print or type your name), request and authorize the agency holding me in custody to send to the Clerk of the United States District Court for the Southern District of New York, or, if this matter is transferred to another district court, to the Clerk of the transferee court, a certified copy of my prison account statement for the past six months. I further request and authorize the agency holding me in custody to calculate the amounts specified by 28 U.S.C. § 1915(b), to deduct those amounts from my prison trust fund account (or institutional equivalent), and to disburse those amounts to the United States District Court for the Southern District of New York. This authorization shall apply to any agency into whose custody I may be transferred, and to any other district court to which my case may be transferred and by which my poor person application may be decided.

I UNDERSTAND THAT BY SIGNING AND RETURNING THIS NOTICE TO THE COURT, THE ENTIRE COURT FILING FEE OF \$350.00 WILL BE PAID IN INSTALLMENTS BY AUTOMATIC DEDUCTIONS FROM MY PRISON TRUST FUND ACCOUNT EVEN IF MY CASE IS DISMISSED OR EVEN IF I VOLUNTARILY WITHDRAW THE CASE.

February 7th 2015

Signature of Plaintiff

241 10 11783/6082237-J

Prisoner I.D. Number

Brooklyn Detention Center B.K.D.C

Name of current facility

